

The opinion in support of the decision being entered today was **not** written for publication and is **not** binding precedent of the Board.

Paper No. 18

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JOHN J. GOWAN
and
THOMAS T. GRIFFITH

Appeal No. 2000-1481
Application No. 08/950,130

ON BRIEF

Before ABRAMS, McQUADE, and NASE, Administrative Patent Judges.
NASE, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 1 and 2, which are all of the claims pending in this application.

We REVERSE.

BACKGROUND

The appellants' invention relates to an antiskid control system. A copy of the claims under appeal is set forth in the appendix to the appellants' brief.

The prior art reference of record relied upon by the examiner in rejecting the appealed claims is:

Cook et al. (Cook)	4,530,058	July 16,
1985		

Claims 1 and 2 stand rejected under 35 U.S.C. § 103 as being unpatentable over Cook.

Rather than reiterate the conflicting viewpoints advanced by the examiner and the appellants regarding the above-noted rejection, we make reference to the answer (Paper No. 12, mailed October 1, 1999) for the examiner's complete reasoning in support of the rejection, and to the brief (Paper No. 11, filed June 28, 1999) and reply brief (Paper No. 13, filed November 29, 1999) for the appellants' arguments thereagainst.

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OPINION

In reaching our decision in this appeal, we have given careful consideration to the appellants' specification and claims, to the applied prior art reference, and to the respective positions articulated by the appellants and the examiner. Upon evaluation of all the evidence before us, it is our conclusion that the evidence adduced by the examiner is insufficient to establish a prima facie case of obviousness with respect to the claims under appeal. Accordingly, we will not sustain the examiner's rejection of claims 1 and 2 under 35 U.S.C. § 103. Our reasoning for this determination follows.

In rejecting claims under 35 U.S.C. § 103, the examiner bears the initial burden of presenting a prima facie case of obviousness. See In re Rijckaert, 9 F.3d 1531, 1532, 28 USPQ2d 1955, 1956 (Fed. Cir. 1993). A prima facie case of obviousness is established by presenting evidence that would have led one of ordinary skill in the art to arrive at the claimed invention. See In re Fine, 837 F.2d 1071, 1074, 5

USPQ2d 1596, 1598 (Fed. Cir. 1988) and In re Lintner, 458 F.2d 1013, 1016, 173 USPQ 560, 562 (CCPA 1972).

The examiner determined (answer, pp. 2-3) that Cook shows a PBM control algorithm (see table 3a)[.] The term integral-based is meaningless. The PBM control algorithm of Cook et al. is integral based to the same degree claimed. Cook et al. further show a control current of 1 milliamp (see column 8, lines 42-55) and a high stepping current of 10 milliamps which is utilized if the PBM is greater than the LOW PBM. Since LOW PBM is a value which is set to a value which is based on a vehicle speed (see column 8, lines 48-68) then the LOW PBM has different values at low and high speeds. The claimed invention differs only in the use of a multi-gain valve. It would have been obvious to one of ordinary skill in the art to have utilized a multi-gain valve in the system of Cook et al. instead of a single gain valve so as to more precisely control the brake pressure or as a substitute of known valve types.

The appellants argue (brief, pp. 12-14) that Cook¹ does not teach the dual-PBM threshold concept that underlies the present invention wherein the first threshold triggers a highstep firing at high wheelspeeds and the second threshold triggers a highstep firing at low wheelspeeds. In the reply

¹ The teachings of Cook are adequately set forth on pages 8-11 of the brief.

brief (pp. 1-2), the appellants state that they do not find support for the examiner's position that Cook teaches that "LOW PBM has different values at low and high speeds."

After reviewing the teachings of Cook, especially those portions cited by the examiner, we find ourselves in agreement with the appellants' position that Cook does not teach that LOWPBM has different values at low and high speeds (i.e., dual pressure bias modulation thresholds wherein one threshold is active at low wheelspeeds and the other threshold is active at high wheelspeeds). Thus, the modification to Cook found by the examiner to have been obvious does not arrive at the

claimed invention since the improvement clause of claim 1² is not taught or suggested by Cook.

For the reasons set forth above, the decision of the examiner to reject claim 1, and claim 2 dependent thereon, under 35 U.S.C. § 103 is reversed.

² Claim 1 reads as follows:

In an antiskid control system for a multigain hydraulic brake system that includes a multigain antiskid hydraulic valve, an integral-based pressure bias modulation control algorithm for producing an antiskid control current for application to said multigain antiskid hydraulic valve, and a pressure bias modulation high step current that overrides the antiskid control current when the antiskid control current exceeds a pressure bias modulation threshold, the improvement comprising dual pressure bias modulation thresholds, one threshold being active at low wheelspeeds and the other being active at high wheelspeeds.

CONCLUSION

To summarize, the decision of the examiner to reject
claims 1 and 2 under 35 U.S.C. § 103 is reversed.

REVERSED

NEAL E. ABRAMS)	
Administrative Patent Judge)	
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)	BOARD OF PATENT
JOHN P. McQUADE)	APPEALS
Administrative Patent Judge)	AND
)	INTERFERENCES
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JEFFREY V. NASE)	
Administrative Patent Judge)	

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